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Mining Law: Time of the Essence: Laches.—The case of *Gamble v. Hanchett*,¹ involving the famous Silver Peak Mines, reannounces a rule peculiarly applicable to mining property. A person who does not assert his claim arising out of an option to certain property, until after it has been demonstrated to be immensely valuable by reason of the efforts of others claiming under the same option, was declared to have forfeited his rights. As the court said, "The doctrine of laches is particularly applicable to mining law."

Ordinarily, time is not of the essence of a contract, even in the case of a sale of land, unless there is a specific stipulation to that effect in the contract itself.² But time may become of the essence by implication from the nature of the property.³ If it is liable to fluctuations in value, or has a value in its nature speculative, such an implication may be made.⁴ Mining claims are typical of such property, being subject to just such sudden and speculative changes of value. "They are not only subject to great and sudden fluctuations in value, but it is impossible to tell, even after careful examination by experts, whether they will prove valuable or not."⁵ Indeed, in the case of mining property, the fluctuations are so violent, sudden and so incapable of prediction that in every contract for the lease or sale of mining claims, time has long been considered as of the essence.⁶

Many years prior to the inception of modern mining law in the United States, the English Chancery Courts applied the doctrine of laches very strictly in cases involving the transfer of rights to mining property.⁷ *Prendergast v. Turton* is remarkably similar to several cases in our courts.⁸ To protect his rights, a claimant to mining property must exercise diligence in asserting such rights.

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istence of a vein at any particular place except by actually following and developing a known vein to that place or digging into the bowels of the earth and locating it there."

¹ 126 Pac. 111, 135 (Nevada) (1912). See also *Champion Gold Mining Co. v. Champion Mines Co.*, 44 Cal. Dec. 606 (Nov. 20, 1912), and *Cassidy v. Silver King Coalition Mines Co.*, 199 Fed. 100 (Aug. 15, 1912).

² *Brown v. Covillaud*, 10 Cal. 317 (1856); *Bennet v. Hyde*, 92 Cal. 131 (1892); *Miller v. Cox*, 96 Cal. 339 (1892).

³ *Taylor v. Longworth*, 14 Peters, 170 (1840); *Settle v. Winters*, 10 Pac. 216 (Idaho), (1886); *Idaho Gold Mining Co. v. Union Mining Co.*, 47 Pac. 95 (Idaho), (1896).

⁴ *City of London v. Mitford*, 14 Ves. 41 (1807); *Doleret v. Rothchild*, 1 Sim. & St. 590 (1824); *Waterman v. Banks*, 144 U. S. 394 (1892); *Standiford v. Thompson*, 135 Fed. 991 (1905).

⁵ *Gaines v. Chew*, 167 Fed. 630 (1909).

⁶ *Williams v. Long*, 139 Cal. 186 (1903); *Green Ridge Fuel Co. v. Littlejohn*, 119 N. W. 698 (Iowa), (1909).

⁷ *Parker v. Frith*, 1 Sim. & St. 200 (1819); *Prendergast v. Turton*, 1 Y. & C. 110 (1841); *Alloway v. Braine*, 26 Beav. 574 (1859).

⁸ *Twin Lick Oil Co. v. Marbury*, 91 U. S. 587 (1875); *Johnson v. Standard Mining Co.*, 148 U. S. 360 (1893); *Patterson v. Hewitt*, 195 U. S. 309 (1904).